B5

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/992,855	11/05/2001	Ronald W. Fraser	GP-301724	6003

7590 10/28/2004

ANTHONY LUKE SIMON
General Motors Corporation
300 Renaissance Center
P.O. Box 300, Mail Code 482-C23-B21
Detroit, MI 48265-3000

EXAMINER	
PHAM, TUAN	

ART UNIT	PAPER NUMBER
2643	

DATE MAILED: 10/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/992,855	FRASER ET AL.	
	Examiner	Art Unit	
	TUAN A PHAM	2643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 November 2001*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-8, and 10-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Parsa et al. (U.S. Patent No.: 6,757,319, hereinafter, "Parsa").

Regarding claims 1, 16, and 20, Parsa teaches a method of wireless modem carrier level control system comprising (see figure 3):

means for receiving a modem carrier (i.e., transceiver) at a communication node (i.e., base station)(see figure 3, base station 13, transceiver 17, col.7, ln.12-20, col.9, ln.58-67),

means for measuring a modem carrier signal strength (see col.9, ln.58-67),

means for determining whether a modem carrier signal strength is at a prescribed level (i.e., threshold value)(see col.9, ln.58-67, col.10, ln.1-8), and

means for sending a modem carrier level instruction from the communication node to adjust the modem carrier level based on the determination (see col.9, ln.58-67, col.10, ln.1-8).

Regarding claims 2 and 17, Parsa further teaches the method wherein the modem carrier level instruction comprises a modem carrier level parameter (see col.7, ln.54-65).

Regarding claim 3, Parsa fails to explicitly teach the method wherein the modem carrier level parameter comprises a range between one and eight bits of the modem carrier level instruction. However, Parsa teaches two-way transmits voice and data in a digital system (see figure 3). Therefore, carrier level parameter comprises a range between one and eight bits of the modem carrier level instruction is inherently.

Regarding claim 4, Parsa further teaches the method wherein the modem carrier level instruction comprises select frequency tones (signaling message)(see col.9, ln.58-67).

Regarding claims 5, 18 and 21, Parsa further teaches the method adjusting the modem carrier level in response to the modem carrier level instruction (see col.9, ln.58-67, col.10, ln.1-8).

Regarding claims 6 and 19, Parsa further teaches the method wherein the modem carrier level is adjusted more than one time during a communication session (see col.9, ln.58-67, col.10, ln.1-8). The base station continually measures the power

level during the transmission. Therefore, the base station is adjusted the power level more than one time during a communication section.

Regarding claim 7, Parsa further teaches the method measuring the modem carrier signal strength comprises making a single measurement at a beginning of a data communication segment (see col.6, ln.47-67).

Regarding claim 8, Parsa further teaches the method measuring the modem carrier signal strength comprises making a plurality of measurements throughout a communication session (see col.9, ln.58-67).

Regarding claim 10, Parsa further teaches the method wherein the modem carrier is received from an analog modem (see figure 3, computer 23, PC 23 should be included a analog modem).

Regarding claim 11, Parsa further teaches the method wherein the modem carrier is received from a digital modem (see figure 5, transceiver).

Regarding claim 12, Parsa further teaches the method wherein the modem carrier is received from a modem located in a mobile communication device (see figure 3, mobile station 15, col.7, ln.15-20).

Regarding claim 13, Parsa further teaches the method wherein the wireless communication system is an analog mobile telephone system (see figure 3, Packet switched network 19, col.7, ln.21-29).

Regarding claim 14, Parsa further teaches the method wherein the wireless communication system is a digital mobile telephone system (see figure 3, RNC 11, col.7, ln.21-29).

Regarding claim 15, Parsa further teaches the method wherein the prescribed level is based on a reference modem carrier level at the communication node (see col.9, ln.58-67, col.10, ln.1-8).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Parsa et al. (U.S. Patent No.: 6,757,319, hereinafter, "Parsa") into view of Westerlage et al. (U.S. Patent No.: 6,141,404, hereinafter,"Westerlage").

Regarding claim 9, Parsa teaches a method of wireless modem carrier level control system comprising (see figure 3):

receiving a modem carrier (i.e., transceiver) at a communication node (i.e., base station)(see figure 3, base station 13, transceiver 17, col.7, ln.12-20, col.9, ln.58-67),

measuring a modem carrier signal strength (see col.9, ln.58-67),

determining whether a modem carrier signal strength is at a prescribed level (i.e., threshold value)(see col.9, ln.58-67, col.10, ln.1-8),

sending a modem carrier level instruction from the communication node to adjust the modem carrier level based on the determination (see col.9, ln.58-67, col.10, ln.1-8), and

measuring the modem carrier signal strength comprises making a plurality of measurements throughout a communication session (see col.9, ln.58-67).

It should be noticed that Parsa fails to clearly teach the communication session comprises one or more data communication segments and one or more voice communication segments. However, Westerlage teaches such features (see figure 5, col.9, ln.11-67) for a purpose of separating voice and data.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of the communication session comprises one or more data communication segments and one or more voice communication segments, as taught by Westerlage, into view of Parsa in order to transmit both voice and data in communication system.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. In order to expedite the prosecution of this application, the applicants are also requested to consider the following references. Although Waters et al. (U.S. Patent No. 6,611,776), Melnik (U.S. Patent No. 6,496,696), Lundgren (U.S. Patent No. 6,643,519), and Benjamin et al. (Pub. No.: U.S. 2003/0073406) are not applied into this Office Action; they are also called to Applicants attention. They may be used in future Office Action(s). These references are also concerned for supporting the system and method for transmitting power control and signal quality measurement.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Tuan A. Pham** whose telephone number is (703) 305-4987. The examiner can normally be reached on Monday through Friday, 8:00 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Curtis Kuntz can be reached on (703) 305-4708 and

IF PAPER HAS BEEN MISSED FROM THIS OFFICIAL ACTION PACKAGE, PLEASE CALL Customer Service at (703) 306-0377 FOR THE SUBSTITUTIONS OR COPIES.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

Or faxed to: (703) 872-9306

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington VA, Sixth Floor (Receptionist, tel. No. 703-305-4700).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have question on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Art Unit 2643
October 16, 2004
Examiner

Tuan Pham

CURTIS KUNTZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600